

governmental or nongovernmental agency, or by professionals such as veterinarians, chemists, physicists, or psychiatrists, or by organizations, breeders, kennels, sportsmen, hunt clubs, or animal hospitals; or

(b) That a product is the recipient of a bona fide merit award or seal of approval; or

(c) That a product or an ingredient thereof has been inspected by the U.S. Government or any agency thereof and that it has passed that inspection. [Guide 14]

#### § 241.15 Bait advertising.

An industry member should not offer for sale any industry product when the offer is not a bona fide effort to sell the product so offered as advertised and at the advertised price.

NOTE: 1. In determining whether there has been compliance with this section, consideration will be given to acts or practices indicating that the offer was not made in good faith for the purpose of selling the advertised product, but was made for the purpose of contacting prospective purchasers and selling them a product or products other than the product offered. Among acts or practices which will be considered in making that determination are the following:

(a) The creation, through the initial offer or advertisement, or a false impression of the product offered in any material respect;

(b) The refusal to show, demonstrate or sell the product offered in accordance with the terms of the offer;

(c) The disparagement by acts or words of the product offered or the disparagement of the guarantee, or in any other respect in connection with it;

(d) The showing, demonstrating, and in the event of sale, the delivery of a product which is unsuitable for the purpose represented or implied in the offer;

(e) The failure, in the event of sale of the product offered, to deliver such product to the buyer within a reasonable time thereafter;

(f) The failure to have available a quantity of the advertised product at the advertised price sufficient to meet reasonably anticipated demands.

It is not necessary that each act or practice set forth above be present in order to establish that a particular offer does not comply with this section.

NOTE: 2. The Commission's Guides Against Bait Advertising furnish additional guidance respecting bait advertising. See 16 CFR part 238 for the Guides Against Bait Advertising.

[Guide 15]

#### § 241.16 Guarantees, warranties, etc.

(a) An industry member should not represent in advertising or otherwise that a product is guaranteed without clear and conspicuous disclosure of:

(1) The nature and extent of the guarantee; and

(2) Any material conditions or limitations in the guarantee which are imposed by the guarantor; and

(3) The manner in which the guarantor will perform thereunder; and

(4) The identity of the guarantor. (The necessary disclosure requires that any guarantee made by the dealer or vendor which is not backed up by the manufacturer must make it clear that the guarantee is offered by the dealer or vendor only.)

(b) A seller or manufacturer should not advertise or represent that a product is guaranteed when he cannot or does not promptly and scrupulously fulfill his obligations under the guarantee.

(c) A specific example of refusal to perform obligations under the guarantee would arise in connection with the use of the phrase "Satisfaction or your money back" if the guarantor does not promptly make a full refund of the purchase price upon request, irrespective of the reason for such a request.

(d) This section has application not only to "guarantees" but also to "warranties," to purported "guarantees" and "warranties," and to any promise or representation in the nature of a "guarantee" or "warranty."

NOTE: The Commission's Guides Against Deceptive Advertising of Guarantees furnish additional guidance respecting guarantee representations. See 16 CFR part 239 for Guides Against Deceptive Advertising of Guarantees.

[Guide 16]

#### § 241.17 Deceptive pricing.

An industry member should not represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or